

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**Criminal Action No. 2:04cr14
(Maxwell)**

CHARLES E. VAUGHN,

Defendant.

Defendant.

ORDER

By Order entered June 3, 2004, the Court referred any pre-trial motions to be filed on behalf of either the United States of America or the Defendant in the above-styled criminal action to United States Magistrate Judge John S. Kaull, pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B), and authorized Magistrate Judge Kaull to conduct any necessary hearings in resolving said motions or in preparation for submission of proposed findings of fact and recommendation for disposition.

On January 20, 2005, Defendant filed a Motion To Dismiss (Docket #34). Also on January 20, 2005, Defendant filed a Motion To Dismiss Of The Indictment Or In The Alternative Motion In Limine To Exclude Evidence Regarding Certain Allegations In The Indictment (Docket #35). Finally, considered by Judge Kaull in his Report and Recommendation was the Defendant's Motion In Limine And Supplemental Points And Authorities In Support of Motion To Dismiss (Docket #41), filed on February 1, 2005. The Government responded to Defendant's Motion To Dismiss and Motion To Dismiss Of The Indictment Or In The Alternative Motion In Limine To Exclude Evidence Regarding Certain Allegations In The Indictment on January 27, 2005. On February 7, 2005, the Government

filed its Response to Defendant's Motion In Limine And Supplemental Points And Authorities In Support of Motion To Dismiss.

The Docket in the above-styled criminal action reflects that a hearing on pending motions was conducted by United States Magistrate Judge John S. Kaull on February 8, 2005, pursuant to which the Magistrate Judge took under advisement Defendant's aforementioned motions (Dockets #34, 35 and 41). Thereafter, on September 6, 2005, Magistrate Judge Kaull entered his Report And Recommendation, wherein he recommends that the Court deny Defendant's Motion To Dismiss (Docket #34), Motion To Dismiss Of The Indictment Or In The Alternative Motion In Limine To Exclude Evidence Regarding Certain Allegations In The Indictment (Docket #35), and Motion In Limine And Supplemental Points And Authorities In Support of Motion To Dismiss (Docket #41).

Magistrate Kaull's Report And Recommendation advised the parties, pursuant to 28 U.S.C. § 636(b)(1), that any objections to said Report And Recommendation which were not filed, in writing, with the Clerk of Court within ten (10) days after being served with a copy of said Order and Recommended Decision, were waived. On September 16, 2005, Defendant filed a Motion for Extension of Time to File Written Objections, which Motion was granted by Court Order entered on September 22, 2005. Defendant subsequently filed his Written Objections To Report and Recommendation/Opinion on September 26, 2005. The Government filed its Response to Defendant's Written Objections To Report and Recommendation/Opinion on September 28, 2005.

The Court has reviewed the record before it and has conducted a *de novo* review of all matters before Magistrate Judge John S. Kaull in considering the Defendant's Motions. Based upon its review, it appears to the Court that Magistrate Judge Kaull's

Report And Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in the above-styled criminal action. Furthermore, upon consideration of the Defendant's objections, it appears to the Court that the Defendant has not raised any issues that were not thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Accordingly, it is

ORDERED that the Report And Recommendation entered by United States Magistrate Judge Kaull in the above-styled criminal action on September 6, 2005 be, and the same hereby is, **ACCEPTED** in whole. It is further

ORDERED that the Defendant's Motion To Dismiss (Docket #34), Motion To Dismiss Of The Indictment Or In The Alternative Motion In Limine To Exclude Evidence Regarding Certain Allegations In The Indictment (Docket #35), and Motion In Limine And Supplemental Points And Authorities In Support of Motion To Dismiss (Docket #41) shall all be, and the same hereby are, **DENIED** in accordance with the recommendation of Magistrate Judge Kaull. It is further

ORDERED that this matter shall be, and the same hereby is, **REFERRED** back to Magistrate Judge John S. Kaull for any further pretrial development as may be necessary.

The Clerk of Court is directed to transmit copies of this order to counsel of record.

ENTER: October 11th, 2005

/s/ Robert E. Maxwell
United States District Judge